

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TIMOTHY GOODRICH,

Petitioner,

v.

DEPARTMENT OF THE ARMY,

Respondent.

CASE NO. C23-5540 BHS

ORDER

THIS MATTER is before the Court on Defendant Christine Wormuth (the Secretary of the United States Army)'s motion to dismiss, Dkt. 12, pro se petitioner<sup>1</sup> Timothy Goodrich's complaint, Dkt. 10. The motion was filed September 22, 2023, and properly noted for hearing under the Local Rules for October 20, 2023. LCR 7(d)(3) (motions to dismiss shall be treated as fourth Friday motions).

Goodrich's complaint is difficult to follow. He alleges that his supervisors in the Army treated him poorly after he was injured at work, and retaliated against him for reporting the misconduct of others. Dkt. 10 at 1–2. He apparently left the Army in 2020.

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<sup>1</sup> Goodrich calls himself "petitioner" but he is in effect a plaintiff in a civil action.

1 The Secretary interprets Goodrich's complaint as asserting a claim for disability  
2 discrimination and/or retaliation, Dkt. 12 at 1, and contends that the Court lacks subject  
3 matter jurisdiction because Goodrich failed to exhaust his administrative remedies. *Id.*  
4 (citing Hoar Decl., Dkt. 13). She also argues Goodrich has failed to state a plausible  
5 claim. She seeks dismissal under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).  
6 Dkt. 10 at 2.

7 Goodrich has not responded to the motion, and the time for doing so expired  
8 October 16, 2023. Under Local Rule 7(b)(2), a party's failure to respond to a motion to  
9 dismiss can be deemed by the Court an admission that the motion has merit:

10 (2) *Obligation of Opponent*. Each party opposing the motion shall, within  
11 the time prescribed in LCR 7(d), file with the clerk, and serve on each party  
12 that has appeared in the action, a brief in opposition to the motion, together  
13 with any supporting material of the type described in subsection (1). Except  
for motions for summary judgment, if a party fails to file papers in  
opposition to a motion, such failure may be considered by the court as an  
admission that the motion has merit.

14 LCR 7(b)(2).

15 The Secretary's motion does have merit; it demonstrates that Goodrich failed to  
16 exhaust his administrative remedies and that this Court does not have subject matter  
17 jurisdiction over his claims. Goodrich's failure to respond in any fashion to the motion is  
18 an admission of the same. For that reason, and for the reasons outlined in the motion  
19 itself, the Secretary's motion is GRANTED and Goodrich's claims are DISMISSED  
20 without prejudice and without leave to amend.

21 The Clerk shall enter a JUDGMENT and close the case.

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2 IT IS SO ORDERED.

3 Dated this 21st day of November, 2023.

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6 BENJAMIN H. SETTLE  
7 United States District Judge  
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